

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

JOSE ALFREDO SUAREZ,

Plaintiff,

v.

KEN CLARK, et al.,

Defendants.

No. 1:22-cv-00160-JLT-SAB (PC)

**ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS REGARDING
DEFENDANTS' EXHAUSTION MOTION
FOR SUMMARY JUDGMENT**

(Docs. 53, 65)

Plaintiff is proceeding pro se and in forma pauperis in this civil rights action filed pursuant to 42 U.S.C. § 1983. This matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

The magistrate judge recommended Defendants' motion for summary judgment be granted as to Plaintiff's failure to exhaust his failure to intervene claims against Camargo and Hieng and denied as to exhaustion of Plaintiff's retaliation claim against Defendant Gamboa. On October 16, 2023, Plaintiff filed objections to the findings and recommendations. (Doc. 67.) Defendants filed a response on October 19, 2023. (Doc. 68.) In his objections, Plaintiff reiterates the same arguments he raised in his opposition to the motion.

According to 28 U.S.C. § 636(b)(1)(C), this Court conducted a de novo review of this case. Having carefully reviewed the matter, including Plaintiff's objections and Defendants' response, the Court concludes the findings and recommendations to be supported by the record

and proper analysis. Thus, the Court **ORDERS**:

1. The findings and recommendations issued on September 26, 2023 (Doc. 65) are **ADOPTED IN FULL**.
2. Defendants' motion for summary judgment (Doc. 53) is **GRANTED** as to Plaintiff's failure to intervene claims against Camargo and Hieng and **DENIED** as to Plaintiff's retaliation claim against Defendant Gamboa.
3. Plaintiff's failure to intervene claims against Defendants Camargo and Hieng are **DISMISSED**, without prejudice, for failure to exhaust.
4. The matter is referred to the Magistrate Judge for further proceedings.

IT IS SO ORDERED.

Dated: **October 31, 2023**


UNITED STATES DISTRICT JUDGE